

BEAVERCREEK CITY COUNCIL
REGULAR MEETING October 24, 2016 6:00 p.m.

PROCLAMATIONS

◆ Retirement of DJ, K-9 Unit Beaver Creek Police Department

CALL TO ORDER

Mayor Stone called the meeting to order followed by roll call.

PRESENT: Council Member Jarvis, Council Member Litteral, Council Member Upton, Council Member Wallace, Council Member Whilding, Vice Mayor Vann, Mayor Stone

ABSENT: None

TARDY: None

ALSO IN ATTENDANCE: Jill Bissinger, Human Resources; Randy Burkett, City Planner; Michael Cornell, City Manager; Dennis Evers, Chief of Police; Bill Kucera, Financial Administrative Services Director; Dianne Lampton, Clerk of Council; Jeff McGrath, Planning & Zoning Director; Steve McHugh, Legal Counsel; Nick Smith, Assistant City Engineer; Mike Thonnerieux, public Administrative Services Director

PLEDGE

Council Member Wallace led the pledge and a moment of silence

APPROVAL OF AGENDA

Council Member Whilding MOVED to approve the agenda as amended, seconded by Vice Mayor Vann. Motion PASSED by majority voice vote.

APPROVAL OF MINUTES

Council Member Jarvis MOVED to approve the minutes of the October 10, 2016 Regular Meeting, seconded by Council Member Upton. Motion PASSED by majority voice vote.

PRE-SCHEDULED PRESENTER

Issue 22 – Rick Dodds, President, Greene Memorial Hospital and Soin Medical Center

Mr. Dodds gave an update on the hospitals. He said overall, the staff, and the community are alive, well, and needed based on the numbers. He said they do not often share statistics but wanted to share a picture of how things were. He said they serve a number of patients from the Beaver Creek community at Soin Medical Center but also many Beaver Creek residents are served at Greene Memorial Hospital as well. He said the two hospitals complement each other by

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sharing 1,200 employees. He said Soin has grown over 20% this year and they continue to focus on quality first. He said they have a hernia center of excellence, the only one in the region. He said they opened 30 more beds on the fifth floor of Soin. He said even with that Greene Memorial Hospital continues to serve an important need. He said it is a Medicare threshold that allows them to serve a rural health community clinic in the outlying areas. He said it continues to be an important impact in eastern Greene County. The future of health care and the Affordable Care Act means keeping people out of the hospital as much as possible and Greene Memorial Hospital is setup very well for this future. He said they have had more than 90,000 outpatient visits at Greene Memorial Hospital and Soin continues to grow in the outpatient business. Mr. Dodds complimented the Beaver Creek Fire Department and what they bring to the hospital team in the emergency departments. He said the two facilities offer two trauma centers in Greene County and Soin is the second busiest emergency room in the area seeing an average 135 patients each day. Greene Memorial serves an average of 65 patients each day. He said Soin is now a stroke center and offer interventional cardiac services with the exception of open heart surgery. Greene Memorial offers Greene County's only 3D mammography equipment which allows for a higher level of quality. He said this same technology will be coming to Soin next year. He said they upgraded to a \$1 million MRI suite and offers a Joslin Diabetes Center. He said Issue 22 is a county-wide renewal levy and is not an increase and has been renewed by residents for almost 70 years. Greene Memorial served over 102,000 patients in 2015 and this levy insures the continuance of keeping the needed services and quality doctors. He said they will see over 20,000 patients in the emergency department this year and the hospital plays a vital role in the County's healthcare services. The levy is solely for Greene Memorial Hospital. He said the levy costs property owners about \$15 annually per \$100,000 of property value.

PUBLIC HEARING PUD 16-1 SSP #1 Cottages of Beaver Creek (tabled from the October 10, 2016 Regular Meeting)

Clerk Lampton read an application filed by Charles Simms Development, 2785 Orchard Run Road, Dayton, Ohio 45449. The application requests specific site plan approval to allow for the construction of 14 single-story condominium buildings totaling 84 units to be constructed on 20.03 acres. The property is located on the east side of County Line Road approximately 700 feet south of the intersection of County Line Road and Weber Drive. The property is further described as Book 3, Page 3, Parcel 72 on the Greene County Property Tax Atlas.

Mr. Cornell excused himself from the meeting.

Council Member Upton MOVED to untable PUD 16-1 SSP#1, seconded by Council Member Whilding. Motion PASSED by majority voice vote.

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Council Input

Council Member Whilding summarized a couple of points that was addressed at the last meeting. He said Mr. Moorman had addressed the cost structure of taking care of the street which would be about \$1,000 per year. He said another concern was the buffer which would be tight with the properties but was possible. He said they did not get examples of a public street running through a private development. Mr. Moorman said they had looked into this and there were no examples of a private street to public street back to a private street. He said if Council wished to go this direction it would be prudent to make the entire street from County Line Road to Quill public and from there back keep as private. Council Member Whilding asked if all the roads within the Cottages were being built to public standards. Mr. Moorman said the plan currently showed they were being built to private standards which is narrower than required with a public street. Mayor Stone said this could create setback issues if they make it a public street. He explained this was tabled so Council could receive information as to whether or not Quill Road should be connected and if the road should be public or private if they do make the connection. He asked if Council wished to change the current recommendation of staff to keep the access to emergency vehicles only to a full access road.

Council Member Wallace said she had asked a few questions as well which she stated they had been answered. She said she would not be happy to have a public and private access on the same road. She also explained staff, Mr. Simms and the neighborhood had come to an agreement to keep Quill Road as an emergency access only. She wished to keep the plans as presented and move onto the next step.

Mayor Stone asked if any member of Council wished to make a motion to change the access.

Council Member Whilding MOVED to make Quill Road North a full public access road and make Cottage Park Drive a public road from County Line Road to North Quill Road, SECONDED by Council Member Jarvis. Motion was DENIED. (Against – Litteral, Upton, Wallace, Vann, Stone)

Motion

Council Member Upton MOVED for the purpose of taking administrative action, approval of a PUD Specific Site Plan for the Cottages of Beavercreek, PUD 16-1, SSP #1, on the basis that City Council finds the facts submitted with the application and accompanying materials and modifications, amendments and supplementary conditions satisfy the standards and criteria for a PUD Specific Site Plan approval

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as per §158.066 of the Zoning Code. Supplementary conditions required of this approval shall be as follows. I further move that this motion with all conditions be fully recorded in the minutes of this council meeting.

1. The approved site plan and architectural elevations shall be the plans dated "Received August 31, 2016" except as modified herein.
2. A PUD Agreement must be signed by the owner and a bond or letter of credit for the site landscaping must be submitted prior to issuance of a zoning permit for any portion of the project for the purpose, but not for the sole purpose, of insuring the installation of landscaping. Said bond or letter of credit must meet the requirements of the City's landscaping and screening regulations.
3. The final landscape plan shall be reviewed and approved by the Planning Department prior to the release of a zoning permit for the building.
4. Prior to any grading on site, the applicant shall install a temporary grading limit fence, as shown on the approved site plan. If any landscaping/grading is disturbed outside of the grading limit, the applicant shall submit and received approval of an amended landscape plan showing mitigation for the disturbed areas, prior to the release or reduction of any landscaping bonds.
5. Any portion of the site disturbed by grading, and on which no construction occurs within three months after completion of the site grading, shall be planted with appropriate ground cover free of noxious weeds and construction debris and shall be properly maintained.
6. Perpetual maintenance of landscaping shall be provided and any dead or diseased materials shall be removed and replaced with similar types, species and sizes as originally installed, within three months weather permitting.
7. Debris and trash shall be routinely collected by the owner from the parking lot and grounds of all areas of the project including the storm drainage facilities. The City reserves the right to require more frequent collection as necessary.

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8. Aeration and water circulation devices and/or fountains are required for the retention pond(s) and shall be maintained by the owner of the development in perpetuity.
9. Prior to the issuance of a zoning permit, final cut sheet details, showing the design of wall pack or scone lighting, and photometric plans for lighting of the buildings and site shall be reviewed and approved by the Planning Department.
10. Final topography and grading plans shall be submitted for review and approval by the City Engineer prior to submission of application for final subdivision and must be approved prior to the issuance of a site-grading permit.
11. A final subdivision shall be approved by Planning Commission and recorded with the Greene County Auditor's Office prior to the release of any zoning permits for this project.
12. Final drainage calculations shall be approved by the City Engineer prior to the release of the record plan for recording.
13. Prior to the release of the record plan for recording, the applicant shall sign a Subdivider's Contract and submit a bond or letter of credit for the public improvements if required by the City Engineer.
14. The construction hours shall be limited to 7:00 AM to 7:00 PM, Monday thru Saturday.
15. All residential style trash totes shall be stored within or immediately adjacent to a primary structure, and shall be out of ordinary public view on days when trash collection is not occurring (except the night before scheduled pick-up is to occur).
16. Prior to the release of the record plan, park fees shall be paid in-lieu of dedication of parkland as determined at the subdivision stage.
17. There shall be a minimum of 8 handicap designated parking spaces on the site.

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18. The approval of this request is contingent upon the associated PUD Rezoning PUD 16-1 being approved and becoming effective. Should R-PUD 16-1 be disapproved, this site plan shall be null and void.
19. The developer shall pay all costs associated with the installation of a street light at the intersection of Quill Road and Straight Arrow Road.
20. The developer shall pay all costs associated with the design and construction of necessary modifications to the existing traffic signal at the intersection of Straight Arrow Road and County Line Road.
21. The south side of Quill Road, connecting to Straight Arrow Road, shall be constructed to City standards for public roadways.
22. The emergency access at Terrance Drive and Quill Road shall be restricted by collapsible bollards or a gate.
23. The row of evergreen trees along the northern property line shall be continued up to the existing woods.
24. The side drive access to Unit 4 from Quill Road shall be reviewed and moved to a front entry garage if feasible.
25. There shall be a 20-foot setback from the back of the sidewalk to the front of the garage to allow vehicle parking and to maintain a free and clear access on the sidewalks.

Seconded by Council Member Wallace. Motion PASSED by majority voice vote.
(Against – Whilding)

Mr. Cornell returned to the meeting.

PUBLIC HEARING PUD 91-2 MOD 9/16 BSM Development

Clerk Lampton read an application filed by BSM Development, LLC, 3100 Armory Drive, Suite 120, Nashville, TN 37204. The applicant requests a major modification for 0.526 acres of land to allow for the construction of a 4,800 square foot retail building located on the southeast corner of the intersection of North Fairfield Road and Commons Boulevard. The property is further described as Book 4, Page 6, Parcel 113 on the Greene County Property Tax Atlas.

Applicant Presentation

Nathan Harrington, 2800 Corporate Exchange Drive, Columbus, Ohio

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Mr. Harrington said they were looking to modify the PUD to allow for a small retail development.

Staff Presentation

Mr. McGrath summarized the staff report dated October 20, 2016, which stated the applicant is requesting approval to modify the existing site plan in order to allow for the construction of a 4,800 square foot retail building within the Shoppes at Fairfield Commons. He explained the original plan from 1996 was to allow for 40,000 square feet of outlot building space. He explained should this be approved the total square footage would be less, 26,709 square feet, but with more buildings than originally anticipated. Mr. McGrath discussed the location of the lot, the architectural elevations, access points, parking, the landscaping plan, lighting and signage. Staff and Planning Commission recommended approval of the applicants request with 15 conditions.

Public Input

There being no public input, the public hearing was closed.

Council Input

Council Member Litteral questioned if the building would be similar to the Ihop building. She expressed concern of not being able to drive around the building because the parking at the Ihop was confusing. She saw it as a future problem and was thankful Hobby Lobby allowed Ihop patrons to utilize their parking lot. Mr. McGrath understood her concerns and said Hobby Lobby does have requirements to allow for cross parking. He explained there was a complete cross access parking for the entire plat.

Council Member Upton thanked the applicant for the reinvestment into the community and shared the concerns of Council Member Litteral.

Council Member Wallace said she would like to add condition 16 to double the handicapped parking to a total of two parking spaces. She suggested a sign in the Ihop parking lot to warn patrons. She asked if sidewalks would be added to that corner and questioned if all of the owners would be assessed to maintain the assess street. Mr. McGrath said the sidewalks would be extended. He said BSM is currently the owner of the Ihop parcel and they had all of the paperwork regarding future road maintenance.

Council Member Jarvis asked if Ihop patrons would be allowed to park in the adjacent lot. Mr. McGrath said they would.

Mayor Stone expressed concern of the small lot. He said he had concerns of the

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layout and did not have a suggestion of what should go there.

Council Member Wallace MOVED to add condition 16 to add two handicapped parking spaces, seconded by Council Member Jarvis. Motion PASSED by majority voice vote. (Against – Stone)

Motion

Council Member Wallace MOVED for the purpose of taking administrative action, approval of a PUD Major Modification for BSM Development, PUD 91-2, MOD 9/16, on the basis that City Council finds the facts submitted with the application and accompanying materials, and modifications, amendments and supplementary conditions satisfy the standards and criteria for a PUD Major Modification approval as per §158.070 of the Zoning Code. Supplementary conditions required of this approval shall be as follows. I further move that this motion with all conditions be fully recorded in the minutes of this Council meeting.

1. All conditions contained within PUD 91-2, SSP #1 and all subsequent modifications to PUD 91-2 are incorporated herein by reference to the extent they are not specifically amended or altered by any plans and conditions with this Major Modification.

2. The approved site plan, architectural elevations and landscape plan shall be those plans dated "Received September 28, 2016" except as modified herein.

3. All roof top units are to be screened from all directions with architectural features (roof forms or parapet walls) on each building. Pad mounted equipment must be screened with landscaping and/or masonry walls and shall not be visible to the public.

4. A PUD Agreement must be signed by the owner/occupant and a bond or letter of credit for the required site landscaping must be submitted prior to issuance of a zoning permit for any portion of the project for the purpose, but not for the sole purpose, of insuring the installation of landscaping. Said bond or letter of credit must meet the requirements of the City's landscaping and screening regulations.

5. Perpetual maintenance of landscaping shall be provided and any dead or diseased materials shall be removed and replaced with similar types, species and sizes as originally planted, within three months, weather permitting.

6. All trash collection containers shall be enclosed within the building or screened from view and enclosed within a permanent dumpster enclosure. All dumpster enclosures shall be constructed with the same materials used to

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construct the building. The dumpster enclosure's gate shall be constructed of a vinyl or composite material, or other material, to be approved by the Planning Department.

7. Temporary signs shall not be permitted within this development with the exception of a construction sign that will be allowed during construction of the project.

8. All concerns of the City Engineer, Fire Department, Sanitary Engineer and the Planning Department shall be addressed and approved prior to the release of a zoning permit.

9. The façade shall not be painted or altered without the express permission of the Planning Department and/or the Planning Commission.

10. A final landscape plan and final photometric plan shall be reviewed and approved by the Planning Department prior to the execution of the required PUD Agreement and the release of a zoning permit for the building.

11. The proposed light fixtures must match, in height and design, those of the IHOP development. No light poles may be located outside of any landscape area.

12. This outlot shall be allowed one ground sign that can be up to 4 feet tall with 32 square feet per sign face. The design of the ground sign shall include a masonry base and sides that shall be constructed of similar material to those on the proposed building.

13. This outlot shall be allowed two square feet of wall signage for each linear foot of building frontage not to exceed 250 square feet with a maximum letter height of 48". Wall signs shall only be permitted on the North, West, and East elevations.

14. The westernmost parking space shall be removed and replaced with a landscape island containing additional landscaping consistent with the rest of the development.

15. A replat of Lot 9A of the Shoppes at Fairfield Commons shall be recorded with all water and sewer easements accepted by the County prior to the issuance of a zoning permit.

16. The applicant shall work with staff to add an additional handicap parking space on the site.

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Seconded by Council Member Litteral. Motion PASSED by majority voice vote.
(Against – Whilding, Stone)

ORDINANCES, RESOLUTIONS AND PUDS

Ordinance 16-22 Repealing Current Section 132.13 “Panhandling” and adopting New Section 132.13 “Panhandling” (Second Reading)

Clerk Lampton read an Ordinance repealing current Section 132.13 “Panhandling” of the City of Beavercreek Code of Ordinances, and adopting new Section 132.13 “Panhandling” of the City of Beavercreek Code of Ordinances.

Mr. McHugh said there were two Ordinances which cover the same topic and there had been no further changes since the first reading.

There being no input, the public hearing was closed.

This Ordinance will move automatically to the Third Reading.

Ordinance 16-23 Repealing Current Chapter 112 “Peddling, and Soliciting, and Distribution” and Adopting new Chapter 112 “Peddling, and Soliciting, and Distribution” (Second Reading)

Clerk Lampton read an Ordinance repealing current Chapter 112 “Peddling and Soliciting” of the City of Beavercreek Code of Ordinances and adopting new Chapter 112 “Peddling, Soliciting, and Distribution” of the City of Beavercreek Code of Ordinances.

Mr. McHugh said this was the companion Ordinance.

There being no input, the public hearing was closed.

This Ordinance will move automatically to the Third Reading.

Ordinance 16-24 Adopting New Section 76.17 “Parking of Large and Oversize Vehicles on Streets” (First Reading)

Clerk Lampton read an Ordinance adopting new section 76.17 “Parking of Large and Oversize Vehicles on Streets” of the City of Beavercreek Code of Ordinances.

Mr. McHugh explained the next three Ordinances cover large, oversized, commercial vehicles and large recreational vehicles parking on streets. He said there were exceptions provided for within the Ordinance. He said there was an issue during the work session regarding penalties and that they needed to be the

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same. He said this was updated. He said this will address the parking and storage of large vehicles on public streets.

Council Member Upton MOVED to approve Ordinance 16-24 and move to the second and third readings, seconded by Council Member Litteral. Motion PASSED by majority voice vote.

Ordinance 16-25 Repealing Current Section 70.01 "Parking of Large and Oversize Vehicles on Streets" (First Reading)

Clerk Lampton read an Ordinance repealing current Section 70.01 "Definitions" of the City of Beavercreek Code of Ordinances, and adopting new Section 70.01 "Definitions" of the City of Beavercreek Code of Ordinances.

Mr. McHugh said this is companion legislation which defines oversize commercial vehicles and large recreational vehicles.

Vice Mayor Vann confirmed if a friend was traveling across the country in a huge RV they would not be able to park on her street. Mr. McHugh said they could park for 24 hours in a seven day period.

Council Member Jarvis MOVED to approve Ordinance 16-25 and move to the second and third readings, seconded by Council Member Litteral. Motion PASSED by majority voice vote.

Ordinance 16-26 Repealing Current Section 76.99 "Penalty" and Adopting New Section 76.99 "Penalty" (First Reading)

Clerk Lampton read an Ordinance repealing current Section 76.99 "Penalty" of the City of Beavercreek Code of Ordinances, and adopting new Section 76.99 "Penalty" of the City of Beavercreek Code of Ordinances.

Mr. McHugh said this legislation addresses the fines that needed to be brought up to date.

Council Member Litteral MOVED to approve Ordinance 16-26 and move to the second and third readings, seconded by Council Member Upton. Motion PASSED by majority voice vote.

Ordinance 16-30 Additional Appropriations (Single reading)

Clerk Lampton read an Ordinance to approve supplemental appropriations for the fiscal year beginning January 1, 2016 and ending December 31, 2016 and to amend Ordinances 15-31, 16-03, 16-08, 16-10 and 16-16.

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Mr. Kucera explained the additional appropriation was for two items. The first was for the cost of legal fees based on the approved Resolution 16-22 authorizing the appointment of special legal counsel to represent the police officers in the Department of Justice investigation. The second was for the repairs to the Alpha Mill roof. Both of the expenditures will be funded through the fund balance which will remain above the 15% fund balance policy.

Council Member Litteral MOVED to approve Ordinance 16-30, seconded by Council Member Whilding. Motion PASSED by a roll call vote of 7-0

Resolution 16-26 Authorize Submittal of Funding Applications for PDAC (Dayton Region Priority Development and Advocacy Committee) Funding

Clerk Lampton read a Resolution to authorize the submittal of the Col. Glenn Highway Enhancement Project and the Grange Hall Road at I-675 Interchange Project for prioritization through the Dayton Regional Priority Development and Advocacy Committee (PDAC).

Mr. Smith explained they were looking to submit two projects to PDAC. The first project was the Grange Hall Road at I-675 Interchange to upgrade from a half interchange to a full interchange. They would be asking for an estimated \$500,000 to complete a Conceptual Alternatives Study and an Interchange Modification Study. The second project was the Colonel Glenn Highway Corridor Enhancement Project which would include sidewalks, lighting, signage, landscaping, hardscaping and site furnishings. This project is in partnership with the City of Fairborn and Wright State University with a request of an estimated \$7,316,276 to complete the project.

Council Member Upton asked there would be a need to acquire land for the I-675 project. Mr. Smith explained there were two preliminary layouts put forth years ago. He said there would be a little bit needed but the land needed may already be owned by ODOT.

Council Member Wallace MOVED to approve Resolution 16-26, seconded by Vice Mayor Vann. Motion PASSED by majority voice vote.

Resolution 16-27 Approval of Petitions for Ohio Energy Special Improvement District

Clerk Lampton read a Resolution approving a petition, articles of incorporation and initial plan for the City of Beavercreek (Greene County), Ohio Energy Special Improvement District.

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Mr. McHugh explained the next five agenda items were related to the PACE financing. He said the bond council that attended the work session was present this evening to address questions. He said this legislation does not provide any liability to the City with respect to general obligation, put a lien on the city or impact the City's borrowing capacity. He said the payment would be the special assessments and payment would be transferred to the owners. He said the signed petition was received today which Council had before them.

David Rogers, Frost, Brown, Todd Law Firm

Mr. Rogers explained they were acting as special counsel for the owner of the Mall at Fairfield Commons. He said this was regarding a project at the Mall at Fairfield Commons to install 400,000 square feet of replacement roofing including additional insulation to increase the R-value and approximately 21 new roof top HVAC units with a total of 427 tons capacity. Mr. Rogers explained the two Resolutions and three Ordinances was the documentation required under the Ohio Revised Code, Chapter 1710 allowing a property owner requested special assessment that can be levied against a project. He explained this case would be for 15 years and the special assessment would payoff of the financing for the facilities that was just discussed. He said the financing would come from a bond issued by the Greene County Port Authority. The bond will be purchased by a single purchaser who is comfortable with making a loan just over \$3 million in order to finance these facilities over 15 years with the security being the special assessment on the Mall at Fairfield Commons. He said there was discussion at the work session regarding multiple parcels and he advised this would be only one parcel which is the Mall at Fairfield Commons minus Macys. He explained Macys owns their own store and would not be assessed.

Vice Mayor Vann asked if they would get a new roof. Mr. Rogers replied yes but would not be assessed.

Council Member Jarvis verified the amount of the loan. Mr. Rogers explained the principle amounts of the bonds was \$3 million but with the interest it would be \$4 million. Mr. McHugh added there were additional costs involved including the cost of the City receiving and handling the money and legal counsel. Council Member Jarvis referred to page seven of the petition which referred to the parcel number for the mall itself. He questioned if there was any need to mention that Macys was owned separately. Mr. Rogers replied no according to the statute.

Council Member Whilding was concerned with the Special Assessment District which is only for the levying of the assessment portion. He said they were actually building a district that would normally function as a mechanism for people to find ways to achieve financing for improvements. He said they were not creating a

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board that is in a district where people in the district can petition and provide plans meeting certain energy efficient requirements to be approved by a board. He said they were creating this board for the sole purpose of one private enterprise. He said this board would be chaired by three people from the corporation and two people from the City. He said the presentation is we created a board to give power to the corporation to control this board. He said the board has nothing that says this function is limited only to this one project and the duration finishes with this project. It's open ended that the district goes on after the project is over. The board can change the parameters of the district which means three voters from the corporation can change the parameters of the district because they have the majority. He said he disagrees with this. Council Member Whilding understood what they were trying to accomplish; the Port Authority is helping a business in the community. He said it is taxpayer money and how they get it is their business and what they do with it is their business. It is helping the mall to improve their facility even though it's not the best energy efficiency improvements. He said they need to nail this down to say it is for this one project and purpose and it closes when it is done. He said this is a risk.

Mr. Rogers explained the statute does not allow for the district to be closed for just this one site. He said Chapter 1710 states energy special improvement districts can be expanded upon the request of the additional property owners that want to be included in the district. He said there was a question at the work session for this to be an option and it is an option by the Ohio Revised Code and also an option in the plan. He said Better Buildings Northwest Ohio was run by the Toledo Lucas County Port Authority which he had worked with for 30 years. He said he was in a conversation with them about creating an energy improvement district citywide for a city in Ohio a week ago. He said the question was could they really create a citywide district to start or does it have to be just the property from the petitioner. He said the answer is it has the spirit of being a citywide district but it's just the property of the petitioner. He said the legislation for that one looks a lot like the legislation for this one because the statute is parcel by parcel. He said this is the way the statute was designed because assessments are sometimes levied against people who don't vote for assessments and don't petition for assessments. He said this is designed for only the people who get assessed are the property owners. He said today 100% of property owners are here today which is the mall but the district has to be expandable by state law. He said in addition if the City would like to work with this district or work with another district to put together a program that looks like Better Buildings Northwest Ohio or C-PACE it is possible to create a plan where you promote these kind of energy special improvements as well as alternative energy facilities which are allowed under the statute. He gave the example of solar panels and other items. He said it would be possible to be done working with special energy improvement district or creating another one that

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would be available to everyone else. He explained the way it is working is capitalism at its most normal which is the property owner wants to pay and they are not asking anybody else to pay which it is why it is only one property owner creating only one special energy improvement district.

Council Member Whilding said he understood and they were doing what it asked. He said the Port Authority was asking the City to create this district but we give you all the power in that district because the board maintains your majority. He said another concern is DP&L is nowhere in the discussion. He understood it as you establish this board and those in the area can present the plans for improvement.

Council Member Wallace agreed with Council Member Whilding and questioned why the format of the board couldn't be changed so that it was not dominated by the petitioner.

Vice Mayor Vann said the mall, which is an asset to the community, was creative enough to seek outside expertise to solve the problem of replacing a 20 year old roof. She said because of past grants that have been put together to provide energy assistance through the Port Authority, they can tap into this and solve their problem for the roof. She said for Council to jeopardize whether or not they can use this financing tool is crazy. She said if Beavercreek wants to have an economic development program and we want to assign staff to put together a PACE program to allow all businesses in Beavercreek to use this reduced interest money for energy improvements, they could establish that project. She said that is not the project before them today. She said today the Mall at Fairfield Commons has a problem and have resourcefully figured out how to solve it by doing it this way. Vice Mayor Vann felt they needed to move forward and do it.

Mayor Stone asked Mr. Rogers if the board could be modified. Mr. Rogers replied yes and explained the statute required there be a minimum of five members in which the mayor and another member appointed by the city be members. He explained in prior financing what happens is there is a set of minutes they prepare at the initial meeting required by the statute as the board has to approve the energy improvement district and is then required to meet once per year. He said you can change the board but there will be literally nothing do discuss with the single asset in the future. He said if this is done for just this project you can change the board but there will be nothing that will happen in the meetings that is of substance.

Mayor Stone asked how long the board would be in existence. Mr. Rogers replied it would be in existence for the term of the assessment. He explained the money in question was not the Port Authority's and are not requesting the creation of the

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ESID (Energy Special Improvement District); the property owners are requesting the creation of the ESID. He said you can do a PACE deal without a Port Authority. He said the Port is being an accommodating party participating because they know that is a common way to get it done. He said PACE loans can come directly from a bank. He said the Port Authority is not in control and not appointing anybody to the board.

Mayor Stone questioned what the board would do. Mr. Rogers replied the board meets when the financing closes and then will meet once per year and file a several sentence report with the State of Ohio saying they are in existence and the energy efficiency improvements are still on the roof. Mayor Stone asked if the board decided what improvements were to be done. Mr. Rogers said the board would not decide unless Council modified the Articles of Incorporation of the board.

Council Member Whilding confirmed the board would have to approve the plan as written with three-quarters of the board members of the corporation.

Mayor Stone said the board can be modified but did not want to go above five members. He said they could have somebody from the County as one of three and two from the developer. He said that would address this issue.

Council Member Wallace was concerned if the mall had talked with DP&L or any new age energy people to see what's out there. Mr. Rogers said this was a real estate investment trust called Washington Prime which is a combination of a west coast real estate investment trust, Simon Properties and Glimcher Real Estate Investment and have looked at this facility and decided this was the best approach.

Council Member Litteral said this is a collaboration and the mall is extremely important to our city and it is a destination. She appreciated the energy efforts and keeping the mall current and in good condition. She like all the aspects of this but thought it would be good to have different people on the board.

Council Member Upton asked when the term of the 15 year loan was completed if the district would be dissolved. Mr. Rogers said the district would not automatically dissolve but normally there would be no reason for it to continue to exist at the end of the term.

Council Member Wallace asked to have a member of the board be from the Greene County Port Authority. Mr. McHugh clarified the Mayor would be one member and the Council would appoint two members which would most likely be a staff member and possibly a member of the Port Authority and two members from the petitioners.

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Council Member Whilding asked for clarification of the process. Mr. Rogers explained a property owners asks the city to levy an assessment, create an energy special improvement district and adopt the five pieces of legislation. After all that has been adopted the special assessment would be in place along with approval of a cooperative agreement which includes the Port's representative (the bond trustee) and the Port Authority. He explained if it was a different lender it would part of the contract that is approved in Ordinance 16-29. He said this time it's the Port Authority and they are officially the lender because they are issuing bonds which are being bought by a Connecticut investment firm.

Mr. McHugh explained there were some blanks in the Ordinance to appoint a staff member to the board plus appoint another. Mr. Rogers suggested to approve the Resolutions at the second readings of the Ordinances. Mr. McHugh suggested Council motion to table the two Resolutions to the next meeting. He explained this would allow revisions to section two regarding the members of the board.

Vice Mayor Vann MOVED to table Resolution 16-27 to the next Regular Council Meeting, seconded by Council Member Jarvis. Motion PASSED by majority voice vote.

Resolution 16-28 Declaring the Necessity of Certain Public Improvements

Clerk Lampton read a Resolution declaring the necessity of acquiring and constructing certain public improvements in cooperation with the City of Beavercreek (Greene County), Ohio Energy Special Improvement District and the Greene County Port Authority.

Vice Mayor Vann MOVED to table Resolution 16-27 to the next Regular Council Meeting, seconded by Council Member Litteral. Motion PASSED by majority voice vote.

Ordinance 16-27 Determining to Proceed with Acquisition, Construction and Improvement of Certain Public Improvements (First Reading)

Clerk Lampton read an Ordinance determining to proceed with the acquisition, construction and improvement of certain public improvements in cooperation with the City of Beavercreek (Greene County), Ohio Energy Special Improvement District and the Greene County Port Authority and declaring an emergency.

Mr. McHugh explained this would not be adopted tonight as an emergency. He said it would have the first, second and third readings with the legislation being adopted on the third reading as an emergency.

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Council Member Jarvis questioned the amount of \$2.7 million. Mr. Rogers said that was the hard cost of the improvement which was listed as items one, two and three on the last page of exhibit D of the petition.

Council Member Whilding questioned the need for the emergency on the third reading. Mr. Rogers explained the property owner and the lender would like to close the loan this year and start the project as quickly as possible. He said if this what not done as an emergency it was unlikely the loan will close between Christmas and New Year's. Council Member Whilding asked upon what approval of what legislation was the board established. Mr. Rogers said the Resolution appointing the board members. Council Member Whilding was concerned of the community filing a referendum before the board was approved.

Vice Mayor Vann MOVED to approve Ordinance 16-27 and move to the second and third readings, seconded by Council Member Wallace. Motion PASSED by majority voice vote. (Against – Whilding)

Ordinance 16-28 Levying Special Assessments for the Purpose of Acquiring, Constructing and Improving Certain Public Improvements (First Reading)

Clerk Lampton read an Ordinance levying special assessments for the purpose of acquiring, constructing and improving certain public improvements in cooperation with the City of Beavercreek, (Greene County), Ohio Energy Special Improvement District and the Greene County Port Authority and declaring an emergency.

Council Member Wallace MOVED to approve Ordinance 16-28 and move to the second and third readings, seconded by Council Member Jarvis. Motion PASSED by majority voice vote.

Ordinance 16-29 Authorize City's Participation in Financing Special Energy Improvement Projects (First Reading)

Clerk Lampton read an Ordinance authorizing the City's participation in financing special energy improvement projects in cooperation with the Port Authority; authorizing the execution of documents to effectuate such financing; and declaring an emergency.

Council Member Litteral MOVED to approve Ordinance 16-29 and move to the second and third readings, seconded by Vice Mayor Vann. Motion PASSED by majority voice vote.

CITY MANAGER'S REPORT

Mr. Cornell reviewed the promotions of two police officers. Beggars' night would be Monday, October 31st from 6:00 – 8:00 p.m. The sixth annual Snow Day would

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be held November 10th at the Municipal Maintenance Facility from 10:00 a.m. – 12:00 p.m. The Veterans Day Ceremony would be Friday, November 11th at the Veteran's Memorial at 2:00 p.m. The Budget Work Sessions will be held on November 16th and November 21st at 5:00 p.m.

MAYOR'S REPORT

Mayor Stone said there was a book collection to benefit the schools in New Orleans due to the flooding. He said the Chamber of Commerce is a drop off point. Information is posted on the website regarding the collection.

COUNCIL TIME

Council Member Litteral congratulated the police promotions. She hoped they would meet the new canine at some point.

Council Member Upton said there would be a candidates and issues forum on Tuesday at the Senior Center at 4:00 p.m. which was being hosted by the Beaver Creek Youth Council. He said this would be the last public forum before the election. He said he would speaking about Issue 1 which create a direct election of mayor.

Council Member Wallace said she would speak at the forum on the opposition of Issue 1. She said there would be a community meet and greet on Tuesday from 7:00 – 8:30 p.m. in the Council Chamber to interview the four final candidates for city manager.

Vice Mayor Vann said she and the Mayor attended the Human 2.0 Wellness Festival held in Beaver Creek.

Council Member Whilding asked to watch for the children on Halloween. He read an article from the paper regarding Council Member Litteral and her staff being recognized by the American Correctional Association for the successful completion of the reaccreditation process. He congratulated her and her staff.

CITIZEN COMMENTS

James Gaw, 721 Woodspring Court, Beaver Creek, Ohio

Mr. Gaw questioned the process of snow removal on cul-de-sacs. He said the plows pile the snow up in his yard in one spot. He said he would like an answer. Mr. Cornell invited Mr. Gaw to the snow day to talk with staff. Mr. Gaw asked what the procedure was. Mr. Cornell said it is contracted out but there were exceptions to this depending on the levels of snow and the size of the storms.

Citizen comments was closed.

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EXECUTIVE SESSION

Council Member Jarvis MOVED to enter into Executive Session at 8:00 p.m. pursuant to Section 121.22 of the Ohio Revised Code, for the purpose of the appointment or employment of a public employee or official and conference with city attorney concerning disputes involving the City that are subject to pending or imminent court action, seconded by Council Member Wallace . Motion PASSED by a roll call vote of 7-0.

Council Member Wallace MOVED to adjourn executive session at 9:15 p.m., seconded by Council Member Whilding . Motion was PASSED by roll call vote of 7-0.

Council Member Whilding MOVED to reconvene the meeting, seconded by Council Member Upton . Motion PASSED by majority voice vote.


ADJOURNMENT

Council Member Upton MOVED to adjourn the meeting at 9:16 p.m., seconded by Council Member Wallace. Motion PASSED by majority voice vote.



Bob Stone, Mayor

ATTEST:



Dianne Lampton
Clerk of Council
Cmin102416